

SECOND REGULAR SESSION

# SENATE BILL NO. 1078

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RUPP.

Read 1st time February 5, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 160.400, 160.405, and 160.410, RSMo, and to enact in lieu thereof three new sections relating to charter schools.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 160.400, 160.405, and 160.410, RSMo, are repealed

2 and three new sections enacted in lieu thereof, to be known as sections 160.400,  
3 160.405, and 160.410 to read as follows:

160.400. 1. A charter school is an independent public school.

2 2. Charter schools may be operated only in a metropolitan school district  
3 or in an urban school district containing most or all of a city with a population  
4 greater than three hundred fifty thousand inhabitants, **or in any district that**  
5 **is not a K-8 district, that has an enrollment of at least two thousand**  
6 **students, and that has been provisionally accredited for any period of**  
7 **three consecutive years since July 1, 1999,** and may be sponsored by any of  
8 the following:

9 (1) The school board of the district;

10 (2) [A public four-year college or university with its primary campus in  
11 the school district or in a county adjacent to the county in which the district is  
12 located, with an approved teacher education program that meets regional or  
13 national standards of accreditation;

14 (3)] A community college [located in] **whose service area includes any**  
15 **portion of** the district; [or

16 (4)] **(3)** Any private **or public** four-year college or university [located in  
17 a city not within a county with an enrollment of at least one thousand students,  
18 and] with an approved teacher preparation program, **with its primary campus**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 **located in Missouri.**

20           3. The mayor of a city not within a county may request a sponsor under  
21 subdivision (2), (3), or (4) of subsection 2 of this section to consider sponsoring a  
22 workplace charter school, which is defined for purposes of sections 160.400 to  
23 160.420 as a charter school with the ability to target prospective students whose  
24 parent or parents are employed in a business district, as defined in the charter,  
25 which is located in the city.

26           4. No sponsor shall receive from an applicant for a charter school any fee  
27 of any type for the consideration of a charter, nor may a sponsor condition its  
28 consideration of a charter on the promise of future payment of any kind.

29           5. The charter school shall be a Missouri nonprofit corporation  
30 incorporated pursuant to chapter 355, RSMo. The charter provided for herein  
31 shall constitute a contract between the sponsor and the charter school.

32           6. As a nonprofit corporation incorporated pursuant to chapter 355, RSMo,  
33 the charter school shall select the method for election of officers pursuant to  
34 section 355.326, RSMo, based on the class of corporation selected. Meetings of  
35 the governing board of the charter school shall be subject to the provisions of  
36 sections 610.010 to 610.030, RSMo, the open meetings law.

37           7. A sponsor of a charter school, its agents and employees are not liable  
38 for any acts or omissions of a charter school that it sponsors, including acts or  
39 omissions relating to the charter submitted by the charter school, the operation  
40 of the charter school and the performance of the charter school.

41           8. A charter school may affiliate with a four-year college or university,  
42 including a private college or university, or a community college as otherwise  
43 specified in subsection 2 of this section when its charter is granted by a sponsor  
44 other than such college, university or community college. Affiliation status  
45 recognizes a relationship between the charter school and the college or university  
46 for purposes of teacher training and staff development, curriculum and  
47 assessment development, use of physical facilities owned by or rented on behalf  
48 of the college or university, and other similar purposes. The primary campus of  
49 the college or university must be located within the county in which the school  
50 district lies wherein the charter school is located or in a county adjacent to the  
51 county in which the district is located. A university, college or community college  
52 may not charge or accept a fee for affiliation status.

53           9. The expenses associated with sponsorship of charter schools shall be  
54 defrayed by the department of elementary and secondary education retaining one

55 and five-tenths percent of the amount of state and local funding allocated to the  
56 charter school under section 160.415, not to exceed one hundred twenty-five  
57 thousand dollars, adjusted for inflation. [Such amount shall not be withheld  
58 when the sponsor is a school district or the state board of education.] The  
59 department of elementary and secondary education shall remit the retained funds  
60 for each charter school to the school's sponsor, provided the sponsor remains in  
61 good standing by fulfilling its sponsorship obligations under sections 160.400 to  
62 160.420 and 167.349, RSMo, with regard to each charter school it  
63 sponsors. **Charter school sponsors may expend up to ten percent of their**  
64 **sponsorship funding for costs not designated; however, the remaining**  
65 **funds shall be designated to support charter school sponsorship**  
66 **activities or directly invested in the sponsored schools.**

67 10. No university, college or community college shall grant a charter to  
68 a nonprofit corporation if an employee of the university, college or community  
69 college is a member of the corporation's board of directors.

70 11. No sponsor shall grant a charter under sections 160.400 to 160.420  
71 and 167.349, RSMo, without ensuring that a criminal background check and child  
72 abuse registry check are conducted for all members of the governing board of the  
73 charter schools or the incorporators of the charter school if initial directors are  
74 not named in the articles of incorporation, nor shall a sponsor renew a charter  
75 without ensuring a criminal background check and child abuse registry check are  
76 conducted for each member of the governing board of the charter school.

77 12. No member of the governing board of a charter school shall hold any  
78 office or employment from the board or the charter school while serving as a  
79 member, nor shall the member have any substantial interest, as defined in  
80 section 105.450, RSMo, in any entity employed by or contracting with the board.  
81 No board member shall be an employee of a company that provides substantial  
82 services to the charter school. All members of the governing board of the charter  
83 school shall be considered decision-making public servants as defined in section  
84 105.450, RSMo, for the purposes of the financial disclosure requirements  
85 contained in sections 105.483, 105.485, 105.487, and 105.489, RSMo.

86 13. A sponsor shall provide timely submission to the state board of  
87 education of all data necessary to demonstrate that the sponsor is in material  
88 compliance with all requirements of sections 160.400 to 160.420 and 167.349,  
89 RSMo.

90 14. The state board of education shall ensure each sponsor is in

91 compliance with all requirements under sections 160.400 to 160.420 and 167.349,  
92 RSMo, for each charter school sponsored by any sponsor. The state board shall  
93 notify each sponsor of the standards for sponsorship of charter schools,  
94 delineating both what is mandated by statute and what best practices  
95 dictate. The state board, after a public hearing, may require remedial action for  
96 a sponsor that it finds has not fulfilled its obligations of sponsorship, such  
97 remedial actions including withholding the sponsor's funding and suspending for  
98 a period of up to one year the sponsor's authority to sponsor a school that it  
99 currently sponsors or to sponsor any additional school. If the state board removes  
100 the authority to sponsor a currently operating charter school, the state board  
101 shall become the interim sponsor of the school for a period of up to three years  
102 until the school finds a new sponsor or until the charter contract period lapses.

160.405. 1. A person, group or organization seeking to establish a charter  
2 school shall submit the proposed charter, as provided in this section, to a sponsor.  
3 If the sponsor is not a school board, the applicant shall give a copy of its  
4 application to the school board of the district in which the charter school is to be  
5 located and to the state board of education, within five business days of the date  
6 the application is filed with the proposed sponsor. The school board may file  
7 objections with the proposed sponsor, and, if a charter is granted, the school  
8 board may file objections with the state board of education. The charter shall  
9 include a mission statement for the charter school, a description of the charter  
10 school's organizational structure and bylaws of the governing body, which will be  
11 responsible for the policy and operational decisions of the charter school, a  
12 financial plan for the first three years of operation of the charter school including  
13 provisions for annual audits, a description of the charter school's policy for  
14 securing personnel services, its personnel policies, personnel qualifications, and  
15 professional development plan, a description of the grades or ages of students  
16 being served, the school's calendar of operation, which shall include at least the  
17 equivalent of a full school term as defined in section 160.011, and an outline of  
18 criteria specified in this section designed to measure the effectiveness of the  
19 school. The charter shall also state:

20 (1) The educational goals and objectives to be achieved by the charter  
21 school;

22 (2) A description of the charter school's educational program and  
23 curriculum;

24 (3) The term of the charter, which shall be not less than five years, nor

25 greater than ten years and shall be renewable;

26 (4) A description of the charter school's pupil performance standards,  
27 which must meet the requirements of subdivision (6) of subsection 5 of this  
28 section. The charter school program must be designed to enable each pupil to  
29 achieve such standards;

30 (5) A description of the governance and operation of the charter school,  
31 including the nature and extent of parental, professional educator, and  
32 community involvement in the governance and operation of the charter school;  
33 and

34 (6) A description of the charter school's policies on student discipline and  
35 student admission, which shall include a statement, where applicable, of the  
36 validity of attendance of students who do not reside in the district but who may  
37 be eligible to attend under the terms of judicial settlements.

38 2. Proposed charters shall be subject to the following requirements:

39 (1) A charter may be approved when the sponsor determines that the  
40 requirements of this section are met and determines that the applicant is  
41 sufficiently qualified to operate a charter school. The sponsor's decision of  
42 approval or denial shall be made within ninety days of the filing of the proposed  
43 charter;

44 (2) If the charter is denied, the proposed sponsor shall notify the applicant  
45 in writing as to the reasons for its denial and forward a copy to the state board  
46 of education within five business days following the denial;

47 (3) If a proposed charter is denied by a sponsor, the proposed charter may  
48 be submitted to the state board of education, along with the sponsor's written  
49 reasons for its denial. If the state board determines that the applicant meets the  
50 requirements of this section, that the applicant is sufficiently qualified to operate  
51 the charter school, and that granting a charter to the applicant would be likely  
52 to provide educational benefit to the children of the district, the state board may  
53 grant a charter and act as sponsor of the charter school. The state board shall  
54 review the proposed charter and make a determination of whether to deny or  
55 grant the proposed charter within sixty days of receipt of the proposed charter,  
56 provided that any charter to be considered by the state board of education under  
57 this subdivision shall be submitted no later than March first prior to the school  
58 year in which the charter school intends to begin operations. The state board of  
59 education shall notify the applicant in writing as the reasons for its denial, if  
60 applicable; and

61           (4) The sponsor of a charter school shall give priority to charter school  
62 applicants that propose a school oriented to high-risk students and to the reentry  
63 of dropouts into the school system. If a sponsor grants three or more charters,  
64 at least one-third of the charters granted by the sponsor shall be to schools that  
65 actively recruit dropouts or high-risk students as their student body and address  
66 the needs of dropouts or high-risk students through their proposed mission,  
67 curriculum, teaching methods, and services. For purposes of this subsection, a  
68 "high-risk" student is one who is at least one year behind in satisfactory  
69 completion of course work or obtaining credits for graduation, pregnant or a  
70 parent, homeless or has been homeless sometime within the preceding six  
71 months, has limited English proficiency, has been suspended from school three  
72 or more times, is eligible for free or reduced-price school lunch, or has been  
73 referred by the school district for enrollment in an alternative  
74 program. "Dropout" shall be defined through the guidelines of the school core  
75 data report. The provisions of this subsection do not apply to charters sponsored  
76 by the state board of education.

77           3. If a charter is approved by a sponsor, the charter application shall be  
78 submitted to the state board of education, along with a statement of finding that  
79 the application meets the requirements of sections 160.400 to 160.420 and section  
80 167.439, RSMo, and a monitoring plan under which the charter sponsor will  
81 evaluate the academic performance of students enrolled in the charter  
82 school. The state board of education may, within sixty days, disapprove the  
83 granting of the charter. The state board of education may disapprove a charter  
84 on grounds that the application fails to meet the requirements of sections 160.400  
85 to 160.420 and section 167.349, RSMo, or that a charter sponsor previously failed  
86 to meet the statutory responsibilities of a charter sponsor.

87           4. Any disapproval of a charter pursuant to subsection 3 of this section  
88 shall be subject to judicial review pursuant to chapter 536, RSMo.

89           5. A charter school shall, as provided in its charter:

90           (1) Be nonsectarian in its programs, admission policies, employment  
91 practices, and all other operations;

92           (2) Comply with laws and regulations of the state, county, or city relating  
93 to health, safety, and state minimum educational standards, as specified by the  
94 state board of education, including the requirements relating to student discipline  
95 under sections 160.261, 167.161, 167.164, and 167.171, RSMo, notification of  
96 criminal conduct to law enforcement authorities under sections 167.115 to

167.117, RSMo, academic assessment under section 160.518, transmittal of school records under section 167.020, RSMo, and the minimum number of school days and hours required under section 160.041;

(3) Except as provided in sections 160.400 to 160.420, be exempt from all laws and rules relating to schools, governing boards and school districts;

(4) Be financially accountable, use practices consistent with the Missouri financial accounting manual, provide for an annual audit by a certified public accountant, publish audit reports and annual financial reports as provided in chapter 165, RSMo, provided that the annual financial report may be published on the department of elementary and secondary education's Internet web site in addition to other publishing requirements, and provide liability insurance to indemnify the school, its board, staff and teachers against tort claims. A charter school that receives local educational agency status under subsection 6 of this section shall meet the requirements imposed by the Elementary and Secondary Education Act for audits of such agencies. For purposes of an audit by petition under section 29.230, RSMo, a charter school shall be treated as a political subdivision on the same terms and conditions as the school district in which it is located. For the purposes of securing such insurance, a charter school shall be eligible for the Missouri public entity risk management fund pursuant to section 537.700, RSMo. A charter school that incurs debt must include a repayment plan in its financial plan;

(5) Provide a comprehensive program of instruction for at least one grade or age group from kindergarten through grade twelve, which may include early childhood education if funding for such programs is established by statute, as specified in its charter;

(6) (a) Design a method to measure pupil progress toward the pupil academic standards adopted by the state board of education pursuant to section 160.514, collect baseline data during at least the first three years for determining how the charter school is performing and to the extent applicable, participate in the statewide system of assessments, comprised of the essential skills tests and the nationally standardized norm-referenced achievement tests, as designated by the state board pursuant to section 160.518, complete and distribute an annual report card as prescribed in section 160.522, which shall also include a statement that background checks have been completed on the charter school's board members, report to its sponsor, the local school district, and the state board of education as to its teaching methods and any educational innovations and the

133 results thereof, and provide data required for the study of charter schools  
134 pursuant to subsection 4 of section 160.410. No charter school will be considered  
135 in the Missouri school improvement program review of the district in which it is  
136 located for the resource or process standards of the program.

137 (b) For proposed high risk or alternative charter schools, sponsors shall  
138 approve performance measures based on mission, curriculum, teaching methods,  
139 and services. Sponsors shall also approve comprehensive academic and  
140 behavioral measures to determine whether students are meeting performance  
141 standards on a different time frame as specified in that school's charter. Student  
142 performance shall be assessed comprehensively to determine whether a high risk  
143 or alternative charter school has documented adequate student progress. Student  
144 performance shall be based on sponsor-approved comprehensive measures as well  
145 as standardized public school measures. Annual presentation of charter school  
146 report card data to the department of elementary and secondary education, the  
147 state board, and the public shall include comprehensive measures of student  
148 progress.

149 (c) Nothing in this [paragraph] **subdivision** shall be construed as  
150 permitting a charter school to be held to lower performance standards than other  
151 public schools within a district; however, the charter of a charter school may  
152 permit students to meet performance standards on a different time frame as  
153 specified in its charter;

154 (7) Assure that the needs of special education children are met in  
155 compliance with all applicable federal and state laws and regulations;

156 (8) Provide along with any request for review by the state board of  
157 education the following:

158 (a) Documentation that the applicant has provided a copy of the  
159 application to the school board of the district in which the charter school is to be  
160 located, except in those circumstances where the school district is the sponsor of  
161 the charter school; and

162 (b) A statement outlining the reasons for approval or disapproval by the  
163 sponsor, specifically addressing the requirements of sections 160.400 to 160.420  
164 and 167.349, RSMo.

165 6. The charter of a charter school may be amended at the request of the  
166 governing body of the charter school and on the approval of the sponsor. The  
167 sponsor and the governing board and staff of the charter school shall jointly  
168 review the school's performance, management and operations at least once every



169 two years or at any point where the operation or management of the charter  
170 school is changed or transferred to another entity, either public or private. The  
171 governing board of a charter school may amend the charter, if the sponsor  
172 approves such amendment, or the sponsor and the governing board may reach an  
173 agreement in writing to reflect the charter school's decision to become a local  
174 educational agency [for the sole purpose of seeking direct access to federal  
175 grants]. In such case the sponsor shall give the department of elementary and  
176 secondary education written notice no later than March first of any year, with the  
177 agreement to become effective July first. The department may waive the March  
178 first notice date in its discretion. The department shall identify and furnish a list  
179 of its regulations that pertain to local educational agencies to such schools within  
180 thirty days of receiving such notice.

181         7. (1) A sponsor may revoke a charter at any time if the charter school  
182 commits a serious breach of one or more provisions of its charter or on any of the  
183 following grounds: failure to meet academic performance standards as set forth  
184 in its charter, failure to meet generally accepted standards of fiscal management,  
185 failure to provide information necessary to confirm compliance with all provisions  
186 of the charter and sections 160.400 to 160.420 and 167.349, RSMo, within  
187 forty-five days following receipt of written notice requesting such information, or  
188 violation of law.

189         (2) The sponsor may place the charter school on probationary status to  
190 allow the implementation of a remedial plan, which may require a change of  
191 methodology, a change in leadership, or both, after which, if such plan is  
192 unsuccessful, the charter may be revoked.

193         (3) At least sixty days before acting to revoke a charter, the sponsor shall  
194 notify the governing board of the charter school of the proposed action in  
195 writing. The notice shall state the grounds for the proposed action. The school's  
196 governing board may request in writing a hearing before the sponsor within two  
197 weeks of receiving the notice.

198         (4) The sponsor of a charter school shall establish procedures to conduct  
199 administrative hearings upon determination by the sponsor that grounds exist to  
200 revoke a charter. Final decisions of a sponsor from hearings conducted pursuant  
201 to this subsection are subject to judicial review pursuant to chapter 536, RSMo.

202         (5) A termination shall be effective only at the conclusion of the school  
203 year, unless the sponsor determines that continued operation of the school  
204 presents a clear and immediate threat to the health and safety of the children.

205 (6) A charter sponsor shall make available the school accountability report  
206 card information as provided under section 160.522 and the results of the  
207 academic monitoring required under subsection 3 of this section.

208 8. A sponsor shall take all reasonable steps necessary to confirm that each  
209 charter school sponsored by such sponsor is in material compliance and remains  
210 in material compliance with all material provisions of the charter and sections  
211 160.400 to 160.420 and 167.349, RSMo. Every charter school shall provide all  
212 information necessary to confirm ongoing compliance with all provisions of its  
213 charter and sections 160.400 to 160.420 and 167.349, RSMo, in a timely manner  
214 to its sponsor.

215 9. A school district may enter into a lease with a charter school for  
216 physical facilities.

217 10. A governing board or a school district employee who has control over  
218 personnel actions shall not take unlawful reprisal against another employee at  
219 the school district because the employee is directly or indirectly involved in an  
220 application to establish a charter school. A governing board or a school district  
221 employee shall not take unlawful reprisal against an educational program of the  
222 school or the school district because an application to establish a charter school  
223 proposes the conversion of all or a portion of the educational program to a charter  
224 school. As used in this subsection, "unlawful reprisal" means an action that is  
225 taken by a governing board or a school district employee as a direct result of a  
226 lawful application to establish a charter school and that is adverse to another  
227 employee or an educational program.

228 11. Charter school board members shall be subject to the same liability  
229 for acts while in office as if they were regularly and duly elected members of  
230 school boards in any other public school district in this state. The governing  
231 board of a charter school may participate, to the same extent as a school board,  
232 in the Missouri public entity risk management fund in the manner provided  
233 under sections 537.700 to 537.756, RSMo.

234 12. Any entity, either public or private, operating, administering, or  
235 otherwise managing a charter school shall be considered a quasi-public  
236 governmental body and subject to the provisions of sections 610.010 to 610.035,  
237 RSMo.

238 13. The chief financial officer of a charter school shall maintain a surety  
239 bond in an amount determined by the sponsor to be adequate based on the cash  
240 flow of the school.

160.410. 1. A charter school shall enroll:

2 (1) All pupils resident in the district in which it operates;

3 (2) Nonresident pupils eligible to attend a district's school under an urban  
4 voluntary transfer program; [and]

5 (3) **In the case of a charter school whose mission includes student**  
6 **drop-out prevention or recovery, a nonresident pupil from the same or**  
7 **an adjacent county who submits a timely application; and**

8 (4) In the case of a workplace charter school, any student eligible to  
9 attend under subdivision (1) or (2) of this subsection whose parent is employed  
10 in the business district, who submits a timely application, unless the number of  
11 applications exceeds the capacity of a program, class, grade level or building. The  
12 configuration of a business district shall be set forth in the charter and shall not  
13 be construed to create an undue advantage for a single employer or small number  
14 of employers.

15 2. If capacity is insufficient to enroll all pupils who submit a timely  
16 application, the charter school shall have an admissions process that assures all  
17 applicants of an equal chance of gaining admission except that:

18 (1) A charter school may establish a geographical area around the school  
19 whose residents will receive a preference for enrolling in the school, provided that  
20 such preferences do not result in the establishment of racially or  
21 socioeconomically isolated schools and provided such preferences conform to  
22 policies and guidelines established by the state board of education; [and]

23 (2) A charter school may also give a preference for admission of children  
24 whose siblings attend the school or whose parents are employed at the school or  
25 in the case of a workplace charter school, a child whose parent is employed in the  
26 business district or at the business site of such school; **and**

27 (3) **A charter school whose mission includes student drop-out**  
28 **prevention or recovery as described in subdivision (3) of subsection 1**  
29 **of this section shall give preference for admission to resident pupils**  
30 **over nonresident pupils.**

31 3. A charter school shall not limit admission based on race, ethnicity,  
32 national origin, disability, gender, income level, proficiency in the English  
33 language or athletic ability, but may limit admission to pupils within a given age  
34 group or grade level.

35 4. The department of elementary and secondary education shall  
36 commission a study of the performance of students at each charter school in

37 comparison with a comparable group and a study of the impact of charter schools  
38 upon the districts in which they are located, to be conducted by a contractor  
39 selected through a request for proposal. The department of elementary and  
40 secondary education shall reimburse the contractor from funds appropriated by  
41 the general assembly for the purpose. The study of a charter school's student  
42 performance in relation to a comparable group shall be designed to provide  
43 information that would allow parents and educators to make valid comparisons  
44 of academic performance between the charter school's students and a group of  
45 students comparable to the students enrolled in the charter school. The impact  
46 study shall be undertaken every two years to determine the effect of charter  
47 schools on education stakeholders in the districts where charter schools are  
48 operated. The impact study may include, but is not limited to, determining if  
49 changes have been made in district policy or procedures attributable to the  
50 charter school and to perceived changes in attitudes and expectations on the part  
51 of district personnel, school board members, parents, students, the business  
52 community and other education stakeholders. The department of elementary and  
53 secondary education shall make the results of the studies public and shall deliver  
54 copies to the governing boards of the charter schools, the sponsors of the charter  
55 schools, the school board and superintendent of the districts in which the charter  
56 schools are operated.

57         5. A charter school shall make available for public inspection, and provide  
58 upon request, to the parent, guardian, or other custodian of any school-age pupil  
59 resident in the district in which the school is located the following information:

- 60             (1) The school's charter;
- 61             (2) The school's most recent annual report card published according to  
62 section 160.522; and
- 63             (3) The results of background checks on the charter school's board  
64 members.

65 The charter school may charge reasonable fees, not to exceed the rate specified  
66 in section 610.026, RSMo, for furnishing copies of documents under this  
67 subsection.

✓